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DECISION



THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20548

FILE: B-205554

DATE: December 10, 1981

MATTER OF: Kings Electronics Co., Inc.

DIGEST:

Protest filed with GAO more than 10 working days after protester knew the basis for protest is untimely and will not be considered on the merits.

Kings Electronics Co., Inc. (Kings), protests the award of a contract to Aul Instruments, Inc. (Aul), pursuant to solicitation No. DLA900-81-R-6179 issued by the Defense Logistics Agency (DLA). DLA advises that the procurement was a total labor surplus area set-aside.

We find the protest to be untimely filed and not for consideration on the merits.

Our Bid Protest Procedures require that protests be filed not later than 10 working days after the basis for protest is known or should have been known, whichever is earlier, and define "filed" as "receipt in the General Accounting Office." 4 C.F.R. § 21.2(b)(2) and (3) (1981).

Kings states that in a letter received on October 23, 1981, DLA notified Kings that its offer was unsuccessful and that award had been made to Aul. Kings questions the award on the ground that Aul will not be performing the work in a labor surplus area. Kings knew the basis of its protest not later than October 23, 1981. Therefore, its protest was required to be filed within 10 working days from that date. Since the protest was not filed until November 19, 1981, it is untimely. See Laerdal Medical Corporation, B-203541, June 16, 1981, 81-1 CPD 501; Davey Compressor Company, B-195425, November 14, 1979, 79-2 CPD 351.

The protest is dismissed.

Harry R. Van Cleve
Harry R. Van Cleve
Acting General Counsel